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September 23, 2009

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Enclosed is a response to the notice of default in the application by the Center for the Application of Information Technologies for GED-i, Serial Number 77-597773.

The Center for the Application of Information Technologies (CAIT) at Western Illinois University, though its partner in the GED-i project - the Illinois Community College Board, has been in earnest and on-going dialog with the American Council on Education for several months regarding the use of GED-i as the trademark for our test preparation curriculum.

It has always been our intention to work with the American Council on Education to find a solution that serves the interest of both of our organizations, but despite our efforts to resolve this issue through dialog, our conversations have come to a standstill.

In our response, we make two distinct points: 1) that the Center for the Application of Information Technologies does indeed own the GED-i mark in partnership with the Illinois Community College Board, and 2) that there are many very public instances of use of GED in the name of test preparation curriculum; several of those instances are cited in this response.

The Center for the Application of Information Technologies (CAIT) and Illinois Community College Board (ICCB) will work with the American Council on Education to ensure the integrity of both of our missions as we are both working to serve the educational needs of those working to advance their education.

Richard Chamberlain, Director  
Center for the Application of Information Technologies  
Western Illinois University



09-30-2009

U.S. Patent & TM Office Mail Room #34

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Regarding:

Applicant – GED-i, Serial Number: 77597773  
Center for the Application of Information Technologies (CAIT)  
Horrabin Hall 90  
Western Illinois University  
1 University Circle  
Macomb, Illinois 61455

In response to the opposition by the American Council on Education regarding our registration of “GED-i” – Serial Number 77-597773:

1. The Center for the Application of Information Technologies (CAIT) at Western Illinois University, though its partner in the GED-i project - the Illinois Community College Board, has been in earnest and on-going dialog with the American Council on Education for several months regarding the use of GED-i as the trademark for our test preparation curriculum.

It has always been our intention to work with the American Council on Education to find a solution that serves the interest of both of our organizations.

At this point, that has been no agreement as to a solution that fits both of our interests. Our late response to their opposition to our trademark registrations is due to our sincere efforts to find a workable solution with the American Council on Education that best fits the interests of our organizations.

2. Count One of the opposition to our registration states:

*“Count One - Likelihood of Confusion, 15 U.S.C 1052(d)*

*19. The GED-i mark, when used in connection with the services set forth in Application Serial No. 77/597,773, so resembles Opposer’s GED mark as to be likely to cause confusion, cause mistakes, or deceive pursuant to the provisions of 15 U.S.C 1052(d).*

*20. Opposer’s rights in the GED mark predate any rights that the Applicant could assert in the GED-i mark.*

*21. GED-i mark is similar in sound, appearance, meaning, and overall commercial impression to the Opposer’s GED mark.*

*22. The GED-i mark contains all of the Opposer’s mark.*

23. *The application to register the GED-i mark covers services that are closely related and complementary to Opposer's mark.*

24. *Opposer has not authorized or licensed Applicant to use the GED mark."*

The Center for the Application of Information Technologies (CAIT), with its partner in the GED-i project - the Illinois Community College Board, has been using the GED-i name now for over two years in states across the country and presenting the GED-i project at national adult education conferences with no opposition by the American Council on Education.

There are numerous examples within the United States of other entities offering test preparation curriculum and using GED in their name or logo:

- a. *GED Online Class Missouri* - supported by Missouri Adult Education Literacy, <http://www.gedonlineclass.com>
- b. *GEDonline* - maintained by: Diversified Computer Services, Kenosha, <http://www.gedonline.org/>
- c. The GED Academy, Essential Education Corporation, <http://www.passged.com/>
- d. GEDforFree.com, <http://www.gedforfree.com>
- e. *GED Options* - Centennial Online High School, <http://www.gedoptions.com/>
- f. *GED Connection* - Kentucky Educational Television, <http://www.ketadultlearning.org/ged/gedc.htm>
- g. *GED Online* - Mississippi Adult Education, <http://www.colin.edu/gedonline/>
- h. *GED for Me* - <http://www.gedforme.org/>

The GED-i project is very similar to the above projects in what they offer and how they use GED in their names or logos, and in the case of Missouri Adult Education Literacy, Kentucky Educational Television, and Mississippi Adult Education; the use is connect with state education agencies offering services very similar to the GED-i project.

Additionally, to insure that there is no confusion between the GED-i project and the American Council on Education's GED Testing Service; the GED-i project provides information and a link to the American Council on Education via a very prominent link off of its main web page:  
<http://www.ged-i.org/gedill/testingInfo.html>

3. The second count of the opposition to our registration states:

*"Applicant does not own the GED-i Mark*

*26. Upon information and belief, Applicant does not own the GED-i mark and did not own the mark when it filed Serial No. 77/597,773.*

*27. Upon information and belief, Applicant is merely a vendor the rightful owner of the GED-i mark, the Illinois Community College Board, and was not entitled to file the application to register the GED-i mark.*

*28. An application filed in the name of an entity that did not own the mark as of the filing date of the application is void under 37 C.F.R. 2.71(d)"*

In fact, the Center for the Application of Information Technologies (CAIT) does own the GED-i mark in partnership with the Illinois Community College Board (ICCB). The Center for the Application of Information Technologies (CAIT) was acting at the behest of the GED-i Executive Committee as per the Memorandum of Understanding (see included Exhibit A) between the Center for the Application of Information Technologies and the Illinois Community College Board when it filed for a trademark for the GED-i.

In fact, as noted in the first paragraph of the enclosed Memorandum of Understanding (see included Exhibit A) between the Center for the Application of Information Technologies (CAIT) and the Illinois Community College Board (ICCB), CAIT and ICCB are "full and equal partners." This memorandum of understanding was fully signed in June of 2006.

Further, enclosed is a letter of support from the Illinois Community College Board restating our partnership in the GED-i project (see included Exhibit B).

The Center for the Application of Information Technologies (CAIT) and Illinois Community College Board (ICCB) have been offering this online preparation curriculum since 2000 and have served tens of thousands of students in six states.

4. The Center for the Application of Information Technologies (CAIT) and Illinois Community College Board (ICCB) will work with the American Council on Education to ensure the integrity of both of our missions as we are both working to serve the educational needs of those working to advance their education.

*Memorandum of Understanding  
between the  
Illinois Community College Board  
and the Board of Trustees of Western Illinois  
Center for the Application of Information Technologies*

COPY

University

The memorandum of understanding defines issues related to the national deployment and support of the GED Illinois Online including: fiscal agent responsibilities; nationwide coordination; maintaining and updating technology infrastructure; support costs (Help Desk and manuals); and training activities. The Illinois Community College Board (ICCB) and The Center for the Application of Information Technologies (CAIT) are full and equal partners under this agreement. This agreement shall run from September 1, 2005 through June 30, 2010. the Board of Trustees of Western Illinois University

This agreement includes the following sections:

1. Policy Issues
2. Determination of Scope-of-Work
3. Fiscal Issues
4. National Deployment
5. Illinois Deployment

***Policy Issues***

1. CAIT and ICCB jointly develop a five-year plan for developing and deploying the GED Illinois Online.
  - a. A list of initiatives and goals will be created related to:
    - i. Curriculum
      1. Expansion
      2. Revision to existing curriculum
    - ii. Technology
    - iii. Marketing
2. A plan or schedule will be developed to reduce ICCB's financial support of components of GED Illinois deployment in Illinois.
3. An executive committee will be formed to oversee the national GED Illinois deployment. Specifics include:
  - a. Committee shall consist of three members from ICCB and three members from CAIT.
  - b. The committee will review budgets and oversee expenditures.
  - c. The committee will review income from state partners.
  - d. The committee will define how funds generated by the national deployment of GED Illinois Online will be used.
  - e. The committee establish a five year plan and will annually evaluate progress toward the five-year plan.
  - f. The committee will meet every six months (June and December), or more frequently as needed
  - g. The committee will report back to both the Illinois Community College Board and the Center for the Application of Information Technologies the decisions that come out of the regular scheduled meetings.
4. CAIT is the agent responsible for hosting, maintenance, and revisions to GED Illinois Online.
5. The executive committee in consultation between the two agencies will develop a national deployment scope-of-work each year. The scope-of-work will be determined by mutual agreement.
6. The use of funds shall be decided by mutual agreement between the partners. These funds are to be used to reinvest in the GED Illinois Online curriculum and tool(s).

7. If agreement cannot be reached on any provision of policy, a mutually agreed upon arbitrator will be selected to assist the parties to reach an agreement.
8. This agreement shall remain in effect for five years, renewed or amended by mutual agreement.

#### ***Determination of Scope-of-Work***

The parties shall meet on an annual basis to negotiate a scope-of-work for both the Illinois and national programs.

#### ***Fiscal Issues***

1. ICCB serves as fiscal agent
2. Funds beyond those used for the support and maintenance of the nationwide deployment may be used for:
  - a. Reducing costs related to using GED Illinois Online within Illinois
  - b. Revising the GED Illinois Online curriculum
  - c. Expanding the GED Illinois Online curriculum
  - d. Other GED Illinois Online initiatives as identified.

#### ***National Deployment***

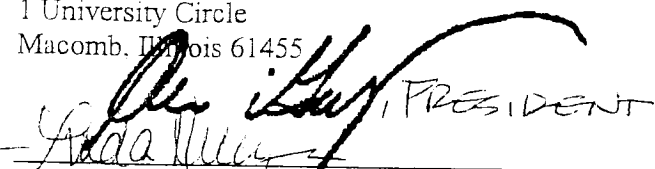
1. CAIT serves as the nationwide administrator of the program
  - a. CAIT shall provide a national coordinator to provide the necessary oversight and coordination of this program
  - b. The national coordination is an additional role beyond coordinating GED Illinois Online in Illinois.
  - c. National coordinator is responsible for program administration, including the following:
    - i. Maintaining relationship with all existing national partners
    - ii. Expanding the use of GED Illinois Online
    - iii. Working with fiscal agent
    - iv. Promotional and publication activities
    - v. Maintaining technology related to national deployment
    - vi. Coordinating training activities
    - vii. Coordinating support activities
    - viii. Coordinating evaluation activities

#### ***Illinois Deployment***

ICCB will maintain control of the direction of the deployment of the GED Illinois within Illinois and will work with the executive committee to guide program improvements.


IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Understanding agreement to be executed by their duly authorized representatives.

Board of Trustees of  
Western Illinois University  
1 University Circle  
Macomb, Illinois 61455


  
Jackie Thompson, Administrative Vice-President  
Linda Hillyer, Assistant to the Vice  
President for Administrative Services

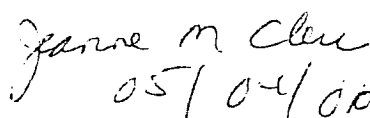
5/9/06  
Date

Illinois Community College Board  
401 East Capitol Avenue  
Springfield, Illinois 62701-1711

  
Geoffrey S. Orzut, President/CEO

6/2/06  
Date

V.P.   
DATE 5/1/06

  
05/04/06

# Illinois Community College Board



Guy H. Alongi  
Chairman

Geoffrey S. Ohrzut  
President/CEO

*proudly serving the*

## Illinois Community College System

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Regarding: Applicant No.: 77597773

The Center for the Application of Information Technologies (CAIT) at Western Illinois University is a partner with the Illinois Community College Board (ICCB) as part of the GED-I / GED Illinois / GED Online National Project for approximately three years. CAIT and the ICCB have worked in partnership to deploy this online preparation system to the national affiliates

CAIT, upon consultation and approval of the ICCB Executive Management team, may act on behalf of the partnership in discussions related to this project. The ICCB is aware that CAIT has applied for trademark status on behalf of the partnership.

Please feel free to contact me if you need further information.

Jennifer Foster  
Senior Director for Adult Education  
and Family Literacy